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8 UNITED STATES DISTRICT COURT

9 WESTERN DISTRICT OF WASHINGTON AT TACOMA

10 TULA CHRISTOTHOULOU, a widow,

11 Plaintiff,

12 v.

13 FRED MEYER STORES, INC., an Ohio  
14 corporation; and THE KROGER CO., an Ohio  
corporation,

15 Defendants.

No.

DEFENDANTS' NOTICE OF REMOVAL OF  
ACTION PURSUANT TO 28 U.S.C.  
SECTIONS 1332, 1441 AND 1446

16 TO: CLERK, U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON;

17 AND TO: PLAINTIFF'S COUNSEL OF RECORD.

18 Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Fred Meyer Stores, Inc. and The  
19 Kroger Co. ("Defendants") hereby remove this action from the Superior Court of the State of  
20 Washington in and for the County of King to the United States District Court for the Western  
21 District of Washington.

22 **I. STATEMENT AND GROUNDS FOR REMOVAL**

23 1. On August 4, 2020, Plaintiff commenced a lawsuit in King County Superior Court  
24 entitled *Tula Christothoulou v. Fred Meyer Stores, Inc. and The Kroger Co.*, cause number 20-2-  
25

NOTICE OF REMOVAL - 1

15310362.1:10966-0018

WOOD, SMITH, HENNING & BERMAN LLP  
520 Pike Street, Suite 1525  
Seattle, Washington 98101-4001  
206-204-6800

1 12141-0SEA (the "State Court Action"). Plaintiff claims that as a result of Defendants' negligence,  
2 she has suffered pain, mental and physical anguish, economic damages, and permanent physical  
3 disability. No monetary amount of damages was specified.

4 2. On August 25, 2020, Defendants answered the Complaint filed in the State Court  
5 Action. The documents attached to the *Declaration of Louiza Dudin* as Exhibit A constitute all of  
6 the pleadings served or filed upon Defendants in the State Court Action. Defendants represent that,  
7 apart from the materials attached to the *Declaration of Louiza Dudin* as Exhibit A, they have  
8 received no other process, pleadings, motions or orders in this action. A true and correct copy of the  
9 Service of Process is attached to the *Declaration of Louiza Dudin* as Exhibit B.

10 3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332.  
11 There is complete diversity of citizenship between the parties because Plaintiff is a resident of King  
12 County, Washington. Exhibit A to *Declaration of Louiza Dudin*. Defendants are Ohio corporations  
13 with headquarters located in Ohio. Exhibits C-D to *Declaration of Louiza Dudin*.

14 4. Defendants reserve the right to amend or supplement this notice of removal.

15 5. Should Plaintiff file a motion to remand this case, Defendants respectfully requests  
16 the opportunity to respond more fully in writing, including the submission of affidavits or other  
17 authority.

18 6. By filing this *Notice of Removal*, Defendants do not waive, and expressly reserve, all  
19 defenses available under Rule 12 of the Federal Rules of Civil Procedure.

## 20 II. INTRADISTRICT ASSIGNMENT

21 7. This claim arises out of the county of King, and assignment to a judge in Seattle is  
22 appropriate.

## 23 III. NOTICE TO THE STATE COURT AND PROPER FILING OF RECORDS

24 8. A notice of the filing of this *Notice of Removal* and a true copy of this *Notice of*  
25 *Removal* will be filed with the Clerk of the Superior Court of the State of Washington in and for the

1 County of King as required by 28 U.S.C. § 1446(d).

2 9. Copies of all records and proceeding in the state court together with the *Declaration*  
3 *of Louiza Dudin* verifying that they are true and complete copies of all the records and proceedings  
4 in the State Court Action are filed concurrently with this *Notice*.

5 WHEREFORE, Defendants request that this case currently pending in the Superior Court be  
6 placed on the docket of the United States District Court for the Western District of Washington.

7 DATED: September 3, 2020

WOOD, SMITH, HENNING & BERMAN LLP

8  
9 */s/ Louiza Dudin*

10 Philip B. Grennan, WSBA #8127

11 Louiza M Dudin, WSBA #52497

12 Attorneys for Defendants  
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CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2020, I electronically filed DEFENDANTS' NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. SECTIONS 1332, 1441 AND 1446 with the Clerk of the Court using the CM/ECF.

I hereby certify that the following have been served via CM/ECF electronic service:

Nancy T. McKinley  
Fallon & McKinley PLLC  
155 NE 100<sup>th</sup> Street, Suite 401  
Seattle, WA 98125  
Email: [nmckinley@fallonmckinley.com](mailto:nmckinley@fallonmckinley.com)

DATED this 3<sup>rd</sup> day of September, 2020.

/s/ Michelle A. Davidson

Michelle A. Davidson  
[mdavidson@wshblaw.com](mailto:mdavidson@wshblaw.com)  
Legal Assistant